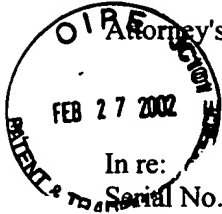


Rp 1617



Attorney's Docket No. 5470.250

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Boucher, Jr.

Examiner: Shengjun Wang

Serial No. 09/465,429

Group Art Unit: 1617

Filed: December 21, 1999

For: *COMPOUNDS AND METHODS FOR THE TREATMENT OF AIRWAY
DISEASES AND FOR THE DELIVERY OF AIRWAY DRUGS*

#10

February 20, 2002

RECEIVED

Commissioner for Patents
Washington, DC 20231

MAR 05 2002

TECH CENTER 1600-2500

**PETITION TO RESTART TIME PERIOD PURSUANT TO
37 CFR SECTION 1.181
BASED ON FAILURE TO RECEIVE OFFICE COMMUNICATION**

Sir:

In response to the Restriction Requirement mailed October 4, 2001, a copy of which is attached, Applicant respectfully requests and/or petitions that the United States Patent and Trademark Office ("USPTO") withdraw any holding of abandonment, pursuant to 37 CFR §1.181 and MPEP §711.04 (c) and re-start the time period in this case.

Applicant states that their representative did not receive the Restriction Requirement until January 26, 2002, and, therefore, a Response to the October 4, 2001 Restriction Requirement was not submitted within the period of one-month from the mailing date of the Restriction Requirement. In support of Applicant's non-receipt of the Restriction Requirement, Applicant's representative provides the following statement.

STATEMENT OF KENNETH D. SIBLEY

(1) I, Kenneth D. Sibley, Applicant's representative, state that I did not receive the October 4, 2001 Restriction Requirement until January 26, 2002.

(2) I have looked in the file, reviewed the file jacket and docket records and there is no entry where the non-received Restriction Requirement would have been entered had it been received and docketed until January 26, 2002, and neither indicates that the Restriction Requirement was received by the law firm of Applicant's attorney until January 26, 2002.

(3) In support thereof, I am attaching a true and accurate copy of the front of the file jacket at **Tab A** and copy of the computerized docket record for this application at **Tab B**.

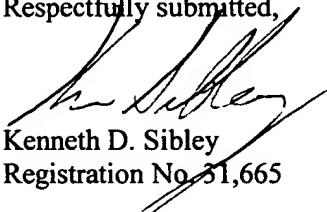
In re: Boucher, Jr.
Serial No. 09/465,429
Filed: December 21, 1999
Page 2

(4) The Response to Restriction Requirement is being submitted concurrently herewith.

The USPTO is encouraged to contact the undersigned attorney by telephone should any further matters need to be addressed. This Action is being promptly taken after receiving notification of the Restriction Requirement.

Applicant believes that no fee is required for the Petition at this time as the non-receipt occurred without fault on the part of the Applicant. Any additional fee associated with this Petition may be charged to our Deposit Account No. 50-0220.

Respectfully submitted,


Kenneth D. Sibley
Registration No. 31,665

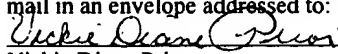


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PATENT TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231, on February 20, 2002.



Vickie Diane Prior

Date of Signature: February 20, 2002

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